

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Shania Roach	Team: Team # 1	CCRB Case #: 201310159	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 08/07/2012 9:51 PM	Location of Incident: Mermaid Avenue and West 28 Street; 60th Precinct stationhouse	Precinct: 60	18 Mo. SOL 2/7/2014	EO SOL 2/7/2014	
Date/Time CV Reported Tue, 10/29/2013 11:29 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/29/2013 11:29 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Yuriy Demchenko	04740	946912	060 PCT
2. POF Alena Aminova	12222	946745	060 PCT
3. SGT Dmitry Brushnivsky	01417	936251	121 PCT
4. An officer			Unknown
5. Officers			Unknown

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Peter Oneill	00000	919500	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Alena Aminova	Abuse: At Mermaid Avenue and West 28th Street in Brooklyn, PO Alena Aminova questioned § 87(2)(b)	
B.POM Yuriy Demchenko	Abuse: At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuriy Demchenko questioned § 87(2)(b)	
C.POM Yuriy Demchenko	Discourtesy: At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuriy Demchenko spoke discourteously to § 87(2)(b)	
D.POM Yuriy Demchenko	Force: At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuriy Demchenko used a chokehold against § 87(2)(b)	
E.POM Yuriy Demchenko	Force: At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuriy Demchenko used physical force against § 87(2)(b)	
F. Officers	Force: At Mermaid Avenue and West 28th Street in Brooklyn, officers used physical force against § 87(2)(b)	
G.SGT Dmitry Brushnivsky	Force: At Mermaid Avenue and West 28th Street in Brooklyn, Sgt. Dmitry Brushnivsky used a taser against § 87(2)(b)	
H. An officer	Abuse: At the 60th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)	

## Case Summary

§ 87(2)(b) filed the following complaint over the phone with the CCRB on October 29, 2013, over a year after the incident date (encl. B 1-3): On August 7, 2012, § 87(2)(b) was stopped by PO Yuri Demchenko and PO Alena Aminova, both of the 60<sup>th</sup> Precinct, at the corner of Mermaid Avenue and West 28<sup>th</sup> Street in Brooklyn. The following allegations arose as a result of their interaction:

- **Allegation A: Abuse of Authority- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko questioned § 87(2)(b)**  
§ 87(2)(b), § 87(2)(g)
- **Allegation B: Abuse of Authority- At Mermaid Avenue and West 28th Street in Brooklyn, PO Alena Aminova questioned § 87(2)(b)**  
§ 87(2)(b), § 87(2)(g)
- **Allegation C: Discourtesy- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko spoke discourteously to § 87(2)(b)**
- **Allegation D: Force- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko used a chokehold against § 87(2)(b), § 87(2)(b)**  
§ 87(2)(g)
- **Allegation E: Force- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko used physical force against § 87(2)(b)**  
§ 87(2)(b), § 87(2)(g)
- **Allegation F: Force- At Mermaid Avenue and West 28th Street in Brooklyn, officers used physical force against § 87(2)(b)**
- **Allegation H: Abuse of Authority- At the 60<sup>th</sup> Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)**  
§ 87(2)(b), § 87(2)(g)
- **Allegation G: Force- At Mermaid Avenue and West 28th Street in Brooklyn, Sgt. Dmitry Brushnivsky used a taser against § 87(2)(b)**  
§ 87(2)(b), § 87(2)(g)

This complaint was filed over fourteen months after the date of occurrence. The case was initially assigned to Investigator Erinn White on October 29, 2013. Due to Investigator White's resignation the case was reassigned to Investigator Roach on December 10, 2013.

### **Results of Investigation**

#### **Civilian Statement**

##### **Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

##### **Statement Made to Medical Personnel**

On August 10, 2012 § 87(2)(b) went to § 87(2)(b) Hospital in Brooklyn and said he was assaulted two days ago and he was not able to get any medical attention while he was under police custody.

##### **CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on November 8, 2013 (encl. C 1-5). His statement was consistent with his original complaint.

On August 7, 2012, at approximately 9:51 p.m. § 87(2)(b) stood in front of the post office located at the corner of West 28<sup>th</sup> Street and Mermaid Avenue in Brooklyn, with his friend § 87(2)(b) for approximately thirty-five minutes. § 87(2)(b) did not know § 87(2)(b) last name nor did he have his contact information. That day, § 87(2)(b) wore army fatigue pants, a black Addidas track jacket with white stripes, and black Addidas sneakers. § 87(2)(b) could not recall what his friend § 87(2)(b) wore. § 87(2)(b) and § 87(2)(b) then crossed the street and stood in front of the Crown Fried Chicken restaurant and spoke for an additional forty-five minutes. As § 87(2)(b) and § 87(2)(b) stood on the corner talking they observed approximately five marked police cars on patrol in the area. All five of the marked police cars came to a stop in front of where § 87(2)(b) and § 87(2)(b) stood. Several officers exited their marked cars and went into a nearby store. After a few minutes, the officers exited the store and went into the barbershop that was next door to where § 87(2)(b) and § 87(2)(b) stood. § 87(2)(b) approximated that the officers spent approximately ten minutes in each location. The officers then exited the barbershop, returned to their marked cars, and drove away.

Approximately ten minutes later, another marked patrol car stopped in front of § 87(2)(b) and § 87(2)(b) PO Alena Aminova, identified through the investigation and described as a uniformed white female who stood 5'6", who appeared to be in her late twenties with brown hair pulled back into a ponytail, a medium build, and who sat in the front passenger's seat, rolled down her window and asked § 87(2)(b) and § 87(2)(b) if they saw two men and provided a description of two men who were suspected of a commercial robbery; however, § 87(2)(b) could not recall the descriptions PO Aminova provided except that one of the men was a black male. § 87(2)(b) and § 87(2)(b) told PO Aminova that they did not see anyone who matched the descriptions. PO Aminova then said, "Get off the street. Take a walk." § 87(2)(b) replied, "What do you mean take a walk? We're having a conversation." PO Aminova told the men to take a walk a second time. § 87(2)(b) told

PO Aminova, “Come on. You can’t just come here harassing us and tell us to leave when we are standing here having a conversation. We’re not violating any laws.” PO Yuri Demchenko, identified through the investigation and described as a uniformed white male with black hair, who stood 5’10” and weighed approximately 180 lbs., exited the driver’s side of the vehicle and hurriedly approached § 87(2)(b) and § 87(2)(b). PO Aminova exited the vehicle as PO Demchenko approached the men.

PO Aminova approached § 87(2)(b) and began speaking to him; however, § 87(2)(b) could not hear their conversation because PO Demchenko spoke to him. PO Demchenko, who stood a few inches away from § 87(2)(b)’s face said, “You have a smart mouth.” § 87(2)(b) replied, “What do you mean? I’m just telling her that she can’t violate my constitutional rights. I’m just standing here having a conversation.” As § 87(2)(b) said this PO Demchenko moved his mouth and mimicked § 87(2)(b) then said, “You think you’re a smart ass.” Feeling uncomfortable that PO Demchenko stood so close to him § 87(2)(b) said, “I’m very homophobic.” § 87(2)(b) believed that his comment angered PO Demchenko because PO Demchenko then grabbed him by the front of his neck with his left hand and pushed him against a nearby wall. § 87(2)(b)’s breathing was restricted while PO Demchenko’s hand was on his neck; however, he could not recall for how long. § 87(2)(b) asked PO Demchenko what he was being arrested for but PO Demchenko never answered. Once § 87(2)(b)’s back was against the wall, PO Demchenko kept his left hand against § 87(2)(b)’s neck and tried to grab his wrist in an attempt to handcuff him. § 87(2)(b) resisted by tensing and flailing his arms and screamed, “No, I’m not going to jail for something I never did.” PO Demchenko then placed his left forearm against the front of § 87(2)(b)’s neck as he used his right arm to place his arm behind his back. § 87(2)(b) then used both of his arms to push PO Demchenko off of him. Throughout the entire struggle PO Demchenko repeatedly yelled, “Put your hands behind your back.” PO Aminova then came over to § 87(2)(b) and held on to his legs until additional units arrived.

About two minutes later, approximately twenty additional officers arrived at the location. § 87(2)(b) approximates that ten officers punched, kicked, and dragged § 87(2)(b) on the sidewalk; however, § 87(2)(b) could not describe any of these officers except for the fact that they wore uniforms. § 87(2)(b) did not recall how he ended up on the ground and believed he lost consciousness. At some point during the struggle, § 87(2)(b) was tasered; however he did not know which officer tasered him nor could he recall the details of being tasered. After being tasered, § 87(2)(b) briefly lost consciousness; however, he did not recall for how long. Once § 87(2)(b) regained consciousness he was face down on the ground and he felt knees and arms pressing on his back and the back of his legs, while handcuffs were placed on his wrists. § 87(2)(b) could not describe any of these officers because he was face down on the ground. After § 87(2)(b) was handcuffed he was placed in the back of a marked police car. While being placed in the police car, an officer punched § 87(2)(b) in the back of his head; however he could not provide a description of the officer because the officer hit him from behind.

§ 87(2)(b) was transported to the 60<sup>th</sup> Precinct stationhouse. § 87(2)(b) could not recall which officer escorted him into the stationhouse nor could he provide a description of them. Once at the stationhouse, § 87(2)(b) asked PO3, a uniformed white male who wore a white shirt, stood 5’11” with an average build, a skinny face, had brown hair that was gelled back, and appeared to be in his mid-40s, for medical attention. PO3 never replied to § 87(2)(b).

§ 87(2)(b)'s request for medical attention and EMS never came to the stationhouse to treat him. § 87(2)(b) was then transported to Brooklyn Central Booking.

A few days after the incident, § 87(2)(b) went to § 87(2)(b) Hospital because he had back and shoulder pain and he thought his nose was broken. The emergency room physician told § 87(2)(b) that his nose was not broken or fractured; however, § 87(2)(b) maintains that his nose is still crooked as a result of the incident.

#### **Attempts to Show a Photo Array**

On February 5, 2014, a call and voice message was left for § 87(2)(b). On that same date a please call letter, which was not returned via the USPS, was mailed to § 87(2)(b). On February 10, 2014, a second call and voice message was left for § 87(2)(b). § 87(2)(b) has not replied to any contact attempts to schedule an appointment to view a photo array.

#### **Attempts to Contact Civilians**

§ 87(2)(b) did not know § 87(2)(b)'s last name nor did he have any contact information for § 87(2)(b); therefore, contact attempts to § 87(2)(b) could not be made.

#### **NYPD Statements:**

##### **Subject Officer: PO YURI DEMCHENKO**

- § 87(2)(b)
- *On the date of the incident, PO Demchenko was assigned to patrol sectors D,E, and F within the confines of the 60<sup>th</sup> Precinct with PO Aminova between 4:00 p.m. and 12:00 a.m. PO Demchenko was in uniform and was assigned to vehicle # § 87(2)(b) a marked patrol car.*

#### **Memo Book**

At 8:38 p.m. PO Demchenko received a call of a dispute with a knife at Mermaid Avenue and West 28<sup>th</sup> Street § 87(2)(b). At 8:45 p.m. PO Demchenko arrived at the location and spoke with the complainant/victim. PO Demchenko then canvassed for the perpetrator, a male black with short hair who stood approximately 5' 5", wearing dark shorts and blue jeans. At 8:47 p.m. a call for additional units was placed. At 8:51 p.m., one male was under arrest and PO Gilson transported § 87(2)(b) to the stationhouse. At 8:55 p.m., PO Demchenko arrived at the stationhouse and at 9:30 p.m., PO Demchenko was out on a line of duty injury (D 1-4).

#### **Handwritten Stop, Question, and Frisk Report**

On August 7, 2012, at 8:50 p.m., § 87(2)(b) was stopped on the street by PO Demchenko because he was suspected of committing a robbery. § 87(2)(b) was stopped because the officers received a report from the victim/witness, his proximity to the crime location, and he fit the description of the perpetrator. The officer explained the reason for the stop and no one else was stopped, questioned, or frisked. The types of force used were handcuffing the suspect, hands on suspect, and placing the suspect on the ground so that the officers could defend themselves and overcome § 87(2)(b)'s resistance. The suspect was not issued a summons; however, he was arrested for assault in the second degree and the arrest number is

§ 87(2)(b) § 87(2)(b) was not frisked or searched, and no weapons or contraband were recovered (encl. D 5-6).

### **Arrest Report**

Arrest report # § 87(2)(b) states that § 87(2)(b) was arrested by PO Demchenko because, “At the time and place of occurrence the perpetrator did start to act disorderly, combative, and then struck the officer with a closed fist and elbow, causing bruising, swelling, and a laceration to the officer’s mouth. When attempting to restrain the perpetrator, the perpetrator did resist all attempts to be handcuffed (encl. D 7-9).

### **Complaint Report**

Complaint report # 2§ 87(2)(b) completed by PO Aminova states that, “At the time and place of occurrence the perpetrator was being questioned for a robbery, at which point he became disorderly, combative, and then with intent to cause physical injury did strike the officer with a closed fist and elbow. The officer suffered a laceration inside of his mouth, bleeding, and swelling (encl. D 10-11).

### **CCRB Statement**

PO Demchenko was interviewed at the CCRB on December 30, 2013 (encl. D. 22-25).

On August 7, 2012, PO Demchenko was on patrol with PO Aminova when they received a call of a dispute with a knife at a deli located at § 87(2)(b) in Brooklyn. PO Demchenko approximates that he arrived at the location two minutes after receiving the call. When PO Demchenko and PO Aminova arrived at the location two other officers were at the location looking at the surveillance video inside of the deli; however, PO Demchenko could not recall who these officers were. PO Demchenko and PO Aminova spoke to the owner of the deli who informed them that the perpetrator tried to rob him with a knife. The store owner also told PO Demchenko and PO Aminova that the perpetrator hangs out at the barber shop around the corner and always comes into the store and tries to rob the deli owner. The deli owner described the perpetrator as a black male, approximately seventeen to eighteen years old, with a short haircut, skinny build, with glasses, a dark shirt and blue jeans. PO Demchenko also added that the deli owner said the perpetrator was 5’ 5’’ tall but could have been taller than PO Demchenko, who was 5’ 10’’. PO Demchenko recalls that the description the deli owner provided was then put over the radio but he could not recall if he or another officer put the description over the radio.

PO Demchenko and PO Aminova canvassed the area and after approximately ten minutes they observed a group of approximately six people standing in front of the barber shop nearby. PO Demchenko described the six individuals as black males who were 25 years old and older. PO Demchenko could not recall if he had a conversation with PO Aminova about approaching the individuals while they were still in the vehicle. PO Demchenko decided to approach the group because the complainant informed the officers that the perpetrator always hangs out in front of the barber shop. At that point, PO Demchenko did not suspect any of the individuals were the suspect. When asked if any of the individuals in the group matched the description of the person they were looking for, PO Demchenko said that they received a description of a black male with short hair and perpetrators can always change their clothes after a robbery.

PO Demchenko and PO Aminova exited their vehicle and approached the group. Both officers asked the group of men if they knew anything about the deli. § 87(2)(b) who was a part of the group, began yelling and said, “Fuck you, I’m not telling you shit.” The other men in

the group were compliant. PO Demchenko instructed the other men in the group to step to the side so that he and PO Aminova were not surrounded by the men. The men complied and stepped to the side. While § 87(2)(b) stood with PO Demchenko, PO Demchenko asked him if he knew anything about the attempted robbery and where he was when the robbery took place. PO Demchenko reiterated that he asked § 87(2)(b) these questions because the robbery victim informed him that the perpetrator hangs out in front of the barbershop where § 87(2)(b) stood and because of § 87(2)(b)'s behavior (yelling, screaming, making threats, and cursing). PO Demchenko thought § 87(2)(b)'s behavior was suspicious because all the other men were cooperative with the officers except § 87(2)(b). § 87(2)(b) then said, "Watch what happens to you after work. I'm going to shoot you," to PO Demchenko. During PO Demchenko's conversation with § 87(2)(b), § 87(2)(b) PO Demchenko never said, "You think you're a smart ass."

PO Demchenko asked § 87(2)(b) for his identification because § 87(2)(b) threatened to shoot him. § 87(2)(b) replied, "I'm not giving you anything," and refused to provide it. At this point § 87(2)(b) was under arrest for obstructing governmental administration because he did not provide his identification, and harassment. PO Demchenko told § 87(2)(b) to turn around and put his hands behind his back. § 87(2)(b) said, "I'm not doing anything. You're not handcuffing me. I'm not getting arrested." PO Demchenko attempted to handcuff § 87(2)(b) by grabbing his arms and putting them behind his back. Each time PO Demchenko reached for § 87(2)(b)'s arms § 87(2)(b) would flail his arms so that PO Demchenko could not grab him. PO Demchenko then grabbed § 87(2)(b)'s arms and placed him against the wall. PO Demchenko never grabbed § 87(2)(b) by his throat. § 87(2)(b) began wrestling with PO Demchenko by pushing and pulling as he tried to get PO Demchenko off of him. PO Demchenko tried to place § 87(2)(b) on the ground several times by grabbing § 87(2)(b)'s arms and clothing but because PO Demchenko was exhausted from struggling and § 87(2)(b) was much taller, PO Demchenko could not take § 87(2)(b) to the ground. During the struggle, § 87(2)(b) struck PO Demchenko on the right side of his face which caused a laceration inside of PO Demchenko's mouth; however, PO Demchenko did not know if he was struck with § 87(2)(b)'s fist or elbow. While PO Demchenko struggled with § 87(2)(b), PO Aminova placed a call over the radio for additional units. PO Demchenko decided to hold § 87(2)(b) against the wall until additional units arrived and did so by placing his forearm against § 87(2)(b)'s chest. PO Demchenko never placed his forearm against § 87(2)(b)'s neck. While PO Demchenko did this, § 87(2)(b) continued to resist by trying to push PO Demchenko off of him.

Additional units arrived at the location; however, PO Demchenko could not recall who the officers were. The responding officers placed § 87(2)(b) on the ground and handcuffed him. PO Demchenko did not assist with the handcuffing because he was bleeding and out of breath. It took the officers approximately two minutes to place § 87(2)(b) in handcuffs; however, PO Demchenko could not recall why it took the officers so long to do this. PO Demchenko never punched, kicked, or dragged § 87(2)(b) while he was on the ground nor did he see any other officer do so. PO Demchenko never saw any officer use a taser on § 87(2)(b) and there was no point during the incident when § 87(2)(b) was out of PO Demchenko's view. When the officers picked him up from the ground, § 87(2)(b) attempted to kick PO Aminova, who stood directly in front of him, in the face. As § 87(2)(b) tried to kick PO Aminova, the officers pulled him to the side by his arm

to prevent § 87(2)(b)'s foot from making impact with PO Aminova and as a result § 87(2)(b) fell to the ground. The officers picked § 87(2)(b) up and then tried to place him into a marked car that was at the location; however, § 87(2)(b) resisted by putting his feet on the patrol car and pushing his body back against the officers so that they could not put him in the car. PO Demchenko could not recall if he assisted with putting § 87(2)(b) inside the car. PO Demchenko did not punch § 87(2)(b) in the back of the head while the officers placed him in the marked car nor did he see any other officer do so.

§ 87(2)(b) was then transported to the 60<sup>th</sup> Precinct stationhouse by PO Gilder. PO Aminova and PO Demchenko then went back to the stationhouse. At the stationhouse, PO Demchenko saw § 87(2)(b) while he was in the holding cell and PO Demchenko said he was compliant at this point. § 87(2)(b) told PO Demchenko that he remembered him from somewhere; however, PO Demchenko did not know what § 87(2)(b) was talking about because he never interacted with § 87(2)(b) in the past. PO Demchenko never heard § 87(2)(b) ask any officer for medical attention while he was at the stationhouse. PO Demchenko completed his paperwork and an ambulance was called for him.

At the end of the interview, PO Demchenko was shown a copy of the handwritten UF 250 he prepared for § 87(2)(b). PO Demchenko stated that the time of stop listed, 8:50 p.m., is an approximation. PO Demchenko checked that § 87(2)(b) fit the description because § 87(2)(b) appeared to be the same age, had the same haircut, and had the same skinny build of the perpetrator that the deli owner described. PO Demchenko elaborated that the deli owner said the perpetrator was 5'5'' but also said that the perpetrator could be taller than PO Demchenko, who is 5' 10''; therefore, the perpetrator's height of 5'5'' was an approximate. § 87(2)(b) was arrested and charged with assault in the second degree for striking PO Demchenko. § 87(2)(b) was not frisked or searched.

#### **Subject Officer: PO ALENA AMINOVA**

- § 87(2)(b)
- *On the date of the incident, PO Aminova was assigned to sectors D, E, and F, within the confines of the 60<sup>th</sup> Precinct, with PO Yuri Demchenko, between 3:00 p.m. and 11:35 p.m.*

#### **Memo Book**

PO Aminova's memo book was destroyed during Hurricane Sandy. PO Aminova brought her memo book in a zip-lock bag for the interview; however, it is unclear if she had any entries regarding this incident because the memo book is water damaged. PO Aminova prepared a UF 61 regarding her damaged memo book.

#### **CCRB Statement**

PO Aminova was interviewed at the CCRB on December 30, 2014 (encl. D 26-28). § 87(2)(g)

PO Aminova and PO Demchenko approached § 87(2)(b) who stood with the group, because he matched the description of the perpetrator the bodega owner gave them; however, at the time of the interview PO Aminova could not recall what the description was nor could she recall if any of the other men standing with § 87(2)(b) matched the description. PO Demchenko and PO Aminova both exited the vehicle and approached the men.



PO Demchenko and PO Aminova asked the men if they saw anything suspicious and other questions in an attempt to get information about the robbery that occurred. Neither PO Demchenko nor PO Aminova said, "You think you're a smart ass," to § 87(2)(b). PO Demchenko asked § 87(2)(b) why he was acting that way and told § 87(2)(b) that there was no reason to act the way he was acting. § 87(2)(b) then said that he would meet PO Demchenko outside of the stationhouse and shoot him. PO Demchenko asked § 87(2)(b) for his identification. § 87(2)(b) replied, "I ain't giving you shit. What the fuck are you going to do? You're not going to do anything." At this point § 87(2)(b) was under arrest for disorderly conduct and menacing.

§ 87(2)(b) resisted arrest by pushing, kicking, and flailing his arms. During the struggle, § 87(2)(b) struck PO Demchenko on the cheek and additional units were called. PO Aminova, PO Demchenko, and the responding officers never kicked, punched, or dragged § 87(2)(b) and § 87(2)(b) was never tased. PO Aminova did not see any officer punch § 87(2)(b) in the back of his head while they tried to place him in the patrol car. PO Aminova never heard § 87(2)(b) ask any officer for medical attention at the stationhouse.

#### **Subject Officer: SGT. DMITRY BRUSHNIVSKY**

- § 87(2)(b)
- *On the date of the incident, Sgt. Brushnivsky was assigned as the patrol supervisor of the 60<sup>th</sup> Precinct between 2:50 p.m. and 11:47 p.m. with PO Matthew Ryman. Sgt. Brushnivsky was in uniform and assigned to vehicle # § 87(2)(b) a marked car.*

#### **Memo Book**

At 8:53 p.m., Sgt. Brushnivsky received a call of a dispute at § 87(2)(b). At 9:10 p.m., a sector placed a call requesting additional units. At 9:15 p.m., one person was arrested and at 10:00 p.m. the person was transported to the stationhouse (encl. D 29-30).

#### **CCRB Statement**

Sgt. Brushnivsky was interviewed at the CCRB on January 15, 2014 (encl D 31-32). § 87(2)(g)

§ 87(2)(g)

(b)

On August 7, 2012, Sgt. Brushnivsky was on patrol when he received a call of officers needing additional units at § 87(2)(b). Approximately thirty seconds later, Sgt. Brushnivsky arrived at the location and saw § 87(2)(b) fighting with PO Demchenko and PO Aminova. Sgt. Brushnivsky could not recall how § 87(2)(b) fought with the officers nor could he recall what PO Demchenko and PO Aminova did in response. Sgt. Brushnivsky did not see PO Demchenko place § 87(2)(b) in a chokehold. Sgt. Brushnivsky exited his vehicle and assisted PO Demchenko and PO Aminova with restraining and handcuffing § 87(2)(b). However, Sgt. Brushnivsky could not recall exactly how this was done. Sgt. Brushnivsky never kicked, punched, or dragged § 87(2)(b) nor did he see any other officer do so. Sgt. Brushnivsky, the only supervisor at the location and the only one in possession of a Taser, never tased § 87(2)(b) nor did any other officer do so. Once § 87(2)(b) was handcuffed, he was placed in the back of a patrol car; however, Sgt. Brushnivsky could not recall which officers placed him in the patrol car or if he assisted. Sgt. Brushnivsky never punched § 87(2)(b) in the back of the head as he was being placed

into the patrol car nor did he see any other officer do so. PO Demchenko and PO Aminova transported him to the 60<sup>th</sup> Precinct stationhouse. Sgt. Brushnivsky resumed patrol.

Near the end of his tour, Sgt. Brushnivsky returned to the 60<sup>th</sup> Precinct stationhouse; however, he had no further interaction with § 87(2)(b) nor did he see § 87(2)(b) in the stationhouse.

**Witness Officer: LT. PETER O'NEIL**

- § 87(2)(b)
- *On the date of the incident, Lt. O'Neil was the counter terrorism vehicle lieutenant from 2:45 p.m. to 11:30 p.m. with PO Tovar. Lt. O'Neil was in uniform and assigned to vehicle #§ 87(2)(b) a marked car.*

**Memo Book**

Lt. O'Neil did not have any memo book entries regarding this incident (encl. D 33-36).

**CCRB Statement**

Lt. O'Neil was interviewed on January 21, 2014 (encl. D 37-38).

On August 7, 2012, Lt. O'Neil was the lieutenant in charge of a Counter-terrorism Response Vehicle (CRV). Lt. O'Neil explained that CRVs are deployed to various commands each day and the CRV officers establish foot posts within a precinct. As the supervisor, Lt. O'Neil visited each post and made sure the officers were at their designated locations at their assigned times. Lt. O'Neil signs each officer's memo book after visiting each post.

Lt. O'Neil arrived at the 60<sup>th</sup> Precinct stationhouse at 2:00 p.m. and remained there until his tour began at 2:45 p.m. Lt. O'Neil's memo book indicates that he left the stationhouse at 4:15 p.m. After leaving the stationhouse, Lt. O'Neil made several stops to foot posts throughout the confines of the 60<sup>th</sup> Precinct. At 8:15 p.m., Lt. O'Neil received a call of an emotionally disturbed person at Bay Parkway and the Belt Parkway, which is in the confines of the 62<sup>nd</sup> Precinct. At 8:30 p.m., Lt. O'Neil was assisted by two officers from the 62<sup>nd</sup> Precinct and at 10:45 the CRV was dismissed. At the end of his tour, Lt. O'Neil returned to the 60<sup>th</sup> Precinct stationhouse to sign out. Lt. O'Neil was only at the stationhouse when he signed in at the beginning of his tour and when he signed out at the end of his tour.

When shown a photograph of § 87(2)(b) Lt. O'Neil did not recognize him. Because Lt. O'Neil was not at the stationhouse he never spoke to § 87(2)(b) nor did he know which officers arrested him. Lt. O'Neil was not aware of the circumstances leading to § 87(2)(b)'s arrest and was not at the incident location during his tour. § 87(2)(b) never asked Lt. O'Neil for medical attention.

**Medical Records**

On August 10, 2012 § 87(2)(b) went to § 87(2)(b) Hospital in Brooklyn and complained of pain to his right foot, shoulders, his right ribs and his head. No fractures were found to his right foot.

## **NYPD Documents**

### **SPRINT**

At 8:33 p.m. a perpetrator is standing in front of § 87(2)(b) and he is wearing a Yankees hat and black shorts. The second description of the perpetrator, who pulled a knife, still at 8:33 p.m., is a black male with dreadlocks, a baseball cap, and wearing a dark blue shirt. At 8:44 p.m. a black male, approximately 5'5", with short hair, wearing a black shirt and blue jeans is armed with a knife. At 8:48 p.m., one male is in custody (encl. E 1-4).

### **Roll Call**

The 60<sup>th</sup> Precinct tour 3 roll call has three lieutenants listed: Lt. Memoly was reassigned to the 2<sup>nd</sup> tour, Lt. O'Neil was assigned to the critical response team and was assigned vehicle # § 87(2)(b) and Lt. Holloway was off. Sgt. Brushnivsky was the patrol supervisor and was assigned to vehicle # § 87(2)(b) (encl. E 7-12).

### **Command Log**

The 60<sup>th</sup> Precinct command log for August 7, 2012, shows that Lt. Joseph Memoly logged in two hours of overtime starting at 8:01 p.m. and Inspector Peter DeBlasio signed in at 10:00 p.m. Lt. Stonebridge signed as the supervisor verifying an arrest that was logged into the command log at 10:20 p.m. § 87(2)(b) was arrested by PO Demchenko for assault in the second degree and he was in good mental and physical condition. He was transported to Brooklyn Central Booking at 1:20 a.m. (encl. E 13-17).

### **Arrest for Incident and Disposition**

- Case number § 87(2)(b) remains open. The next scheduled court date is § 87(2)(b) in § 87(2)(b) Court (encl. F3).

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of January 10, 2014 with regard to the incident (encl. F5).

### **Civilian(s) Criminal History**

- As of January 23, 2014 the Office of Court Administration records reveal no criminal convictions for § 87(2)(b) (encl. F1).

### **Civilian(s) CCRB History**

- § 87(2)(b) has filed the following CCRB complaints:  
In CCRB case number 201310223 § 87(2)(b) alleged that officers used physical force against him. This case remains open.

### **Subject Officer(s) CCRB History**

- PO Yuri Demchenko has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. A 16).
- PO Alena Aminova has been a member of service for five years and there are no substantiated CCRB allegations against her (encl. A 17).
- Sgt. Dmitry Brushnivsky has been a member of service for nine years and there are no substantiated CCRB allegations against him (encl. A 18).

## Conclusion

### Identification of Subject Officers

§ 87(2)(b) alleged that while he was handcuffed and being placed into a patrol car an officer punched him in the back of his head and approximately ten officers punched, kicked, and dragged him on the sidewalk; however, § 87(2)(b) could not provide a description of any of these officers because § 87(2)(b) did not see which officers did this. PO Demchenko, PO Aminova, and Sgt. Brushnivsky, who were all present when § 87(2)(b) was placed in a patrol car and were the only officers who came into physical contact with § 87(2)(b) denied the allegations and did not see any other officer punch, kick, or drag § 87(2)(b). Further, because § 87(2)(b) did not see the subject officers of these allegations, showing him a photo array would not be useful in identifying the officers.

§ 87(2)(b) alleged that at the 60<sup>th</sup> Precinct stationhouse he asked PO3, described as a uniformed white male who wore a white shirt, stood 5'11" with an average build, a skinny face, had brown hair that was gelled back, and appeared to be in his mid-forties, for medical attention and PO3 never replied to § 87(2)(b) and medical attention was never provided. The roll call listed three lieutenants who were scheduled to work on August 7, 2012, during tour three. Of those three lieutenants, Lt. Memoly was reassigned to tour two and Lt. Holloway took the day off. The remaining lieutenant, Lt. O'Neil, was the critical response lieutenant and his memo book shows that he was within the confines of the 62<sup>nd</sup> Precinct when the allegation occurred.

The command log shows that at 10:01 p.m., Lt. Joseph Memoly logged in two hours of overtime starting at 8:01 p.m., and Inspector Peter DeBlasio signed in at 10:00 p.m. Lt. Stonebridge verified an arrest that was logged into the command log at 10:20 p.m. Since the date of the incident, Lt. Stonebridge is no longer a member of service. Photo arrays for Lt. Memoly and Inspector DeBlasio were prepared and contact attempts were made to § 87(2)(b) to schedule an appointment to view the photo arrays; however, § 87(2)(b) did not respond to any contact attempts. Because § 87(2)(b) did not cooperate with viewing a photo array the investigation could not determine which officer was the subject of the refusal to obtain medical treatment allegation; therefore, Allegation H is closed as officers unidentified.

### Investigative Findings and Recommendations

**Allegation A: Abuse of Authority- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko questioned § 87(2)(b)**

**Allegation B: Abuse of Authority- At Mermaid Avenue and West 28th Street in Brooklyn, PO Alena Aminova questioned § 87(2)(b)**

§ 87(2)(b) alleged that as he stood at the corner of Mermaid Avenue and West 28<sup>th</sup> Street talking with his friend § 87(2)(b) PO Aminova asked them if they saw two men who matched the description of the perpetrator. After § 87(2)(b) and § 87(2)(b) told PO Aminova that they did not see anyone matching the description, PO Aminova told the men to get off of the corner. When § 87(2)(b) objected, PO Aminova and PO Demchenko exited their vehicles and approached him.

PO Demchenko stated that the burglary victim informed him that the perpetrator hangs out at the barber shop around the corner and always comes into the store and tries to rob him. The victim described the perpetrator as a black male, approximately seventeen to eighteen years old, with a

short haircut, skinny build, with glasses, a dark shirt and blue jeans. PO Demchenko also added that the victim said the perpetrator was 5' 5" tall but could have been taller than PO Demchenko, who was 5' 10". PO Demchenko and PO Aminova canvassed the area and after approximately ten minutes they observed a group of approximately six people standing in front of the barbershop nearby. PO Demchenko described the six individuals as black males who were 25 years old and older. PO Demchenko decided to approach the group because the complainant informed the officers that the perpetrator always hangs out in front of the barber shop. At that point, PO Demchenko did not suspect any of the individuals were the suspect. PO Aminova alleged that they saw a group of men standing nearby. § 87(2)(b) who stood with the group, matched the description of the perpetrator the bodega owner gave them; however, at the time of the interview PO Aminova could not recall what the description was nor could she recall if any of the other men standing with § 87(2)(b) matched the description. Both PO Aminova and PO Demchenko stated that they approached the group and asked the men if they saw anything suspicious and other questions in an attempt to get information about the robbery that occurred.

According to People v. DeBour, 40 N.Y.2d 210 (1976) an officer must have an objective credible reason to approach an individual and request information (encl. A 1-13).

§ 87(2)(b), § 87(2)(g)

**Allegation C: Discourtesy- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko spoke discourteously to** § 87(2)(b)

**Allegation D: Force- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko used a chokehold against** § 87(2)(b) § 87(2)(b)

§ 87(2)(b) alleged that PO Demchenko said, "You think you're a smart ass," then grabbed him by the front of his neck with his left hand and pushed him against a nearby wall. Once § 87(2)(b)'s back was against the wall, PO Demchenko kept his left hand against § 87(2)(b)'s neck. PO Demchenko denied making the alleged statement and denied ever grabbing § 87(2)(b) by the neck at any point during the incident. PO Aminova and Sgt. Brushnivsky never heard PO Demchenko make the alleged comment and never saw PO Demchenko grab § 87(2)(b) by the neck.

§ 87(2)(b), § 87(2)(g)

**Allegation E: Force- At Mermaid Avenue and West 28th Street in Brooklyn, PO Yuri Demchenko used physical force against** § 87(2)(b)

§ 87(2)(b) alleged that PO Demchenko pushed him against a nearby wall and tried to grab his arms and place them behind his back and he held § 87(2)(b) against the wall. § 87(2)(b) also admitted to resisting being handcuffed by tensing and flailing his arms and used both of his hands to push PO Demchenko off of him. PO Demchenko and PO Aminova said that each time he attempted to handcuff § 87(2)(b) by grabbing his arms and putting them behind his back § 87(2)(b) would flail his arms. Once PO Demchenko

then grabbed § 87(2)(b)'s arms and placed him against the wall, § 87(2)(b) began wrestling with PO Demchenko by pushing and pulling as he tried to get PO Demchenko off of him. PO Demchenko tried to place § 87(2)(b) on the ground several times by grabbing § 87(2)(b)'s arms and clothing but because PO Demchenko was exhausted from struggling and § 87(2)(b) was much taller, PO Demchenko could not take § 87(2)(b) to the ground. During the struggle, § 87(2)(b) struck PO Demchenko on the right side of his face which caused a laceration inside of PO Demchenko's mouth. Sgt. Brushnivsky saw § 87(2)(b) fighting with PO Demchenko and PO Aminova; however, he could not recall how § 87(2)(b) fought with the officers nor could he recall what PO Demchenko and PO Aminova did in response.

According to NYPD Patrol Guide Procedure 203-11, officers should use the minimal amount of force necessary to overcome resistance (encl.).

§ 87(2)(b), § 87(2)(g)

**Allegation F: Force- At Mermaid Avenue and West 28th Street in Brooklyn, officers used physical force against § 87(2)(b)**

As noted in the Identification of Subject Officers section, the investigation was unable to identify the subject officers of these allegations. § 87(2)(g)

**Allegation G: Force- At Mermaid Avenue and West 28th Street in Brooklyn, Sgt. Dmitry Brushnivsky tased § 87(2)(b)**

§ 87(2)(b) alleged that at some point during his struggle with the officers he was tased; however, he did not know which officer tased him nor could he recall the details of being tased. Further, § 87(2)(b)'s medical records show that he did not mention being tased to medical personnel when he went to the hospital after the incident. Sgt. Brushnivsky, the only supervisor at the location who was in possession of a Taser, denied tasing § 87(2)(b). PO Demchenko and PO Aminova never saw any officer taser § 87(2)(b).

§ 87(2)(b), § 87(2)(g)

**Allegation H: Abuse of Authority- At the 60<sup>th</sup> Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)**

As noted in the Identification of Subject Officers section, the investigation was unable to identify the subject officers of this allegation without § 87(2)(b)'s cooperation in viewing a photo array. § 87(2)(g)

Team: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date